

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**CIENA CORPORATION, a Delaware
corporation,**

Plaintiff,

v.

**NORTEL NETWORKS, INC., a Delaware
corporation, NORTEL NETWORKS
LIMITED, a Canadian corporation, and
NORTEL NETWORKS CORPORATION,
a Canadian corporation,**

Defendants.

Civil Action No. 2:05-CV-14-LED

Judge Davis

ORDER MODIFYING AMENDED DOCKET CONTROL ORDER

CAME TO BE CONSIDERED the parties' Joint Motion To Modify Amended Docket Control Order. The Court is of the opinion that the motion should be GRANTED.

IT IS THEREFORE ORDERED that this Court's Amended Docket Control Order is hereby modified as follows:

Dispositive Motions due from all parties and any other motions that may require a hearing; Motion for Summary Judgment shall comply with Local Rule CV56	April 12, 2006
Fact Discovery Deadline for the Depositions Listed on Exhibit A to this Order only. All other fact discovery remains subject to current deadline of April 7, 2006.	April 28, 2006
Parties Permitted to Supplement April 10, 2006	May 1, 2006

Identification of Trial Witnesses, if Necessary.	
Parties Permitted to Supplement April 14, 2006 Identification of Rebuttal Trial Witnesses, if Necessary.	May 5, 2006
Parties to Exchange Page/Line Designations, Trial Exhibit Lists, and Hard Copies of Trial Exhibits.	May 11, 2006
Joint Pretrial Order, Joint Proposed Jury Instructions with citation to authority, and Form of the Verdict for jury trials	May 12, 2006
Deadline for Pretrial Objections.	May 22, 2006
Parties to Exchange Cross-Designations to Page/Line Designations	May 23, 2006
Deadline Objections to Cross-Designations to Page/Line Designations	May 29, 2006

No other deadlines are modified.

So ORDERED and SIGNED this 12th day of April, 2006.



LEONARD DAVIS
UNITED STATES DISTRICT JUDGE

Exhibit A

Depositions to be Taken By Ciena:

- Richard Vallee
- Witness(es) to testify regarding Topics 43-53 of Ciena's February 25, 2006 30(b)(6) Deposition Notice.
- No more than two witnesses selected from the following list: Alan Solheim, Tim Armstrong, Ron Gagnon, Mark Wright, and Dave Nicholson.
- Art Fischer
- Witness(es) to testify regarding Topics 10, 11, 16, and 23 of Ciena's November 23, 2005 30(b)(6) Deposition Notice.
- Rob Keates to testify regarding the absence of non-infringing alternatives to the '324, '694, '519, and '760 patents and non-infringing alternatives on Ciena's patents.
- Witness(es) to testify in writing regarding Topics 54-55 of Ciena's March 15, 2006 email from Ryan Nishimoto to Mike Perez.

Ciena reserves its right to (1) move to compel Nortel's deposition regarding Topic 9 of Ciena's November 23, 2005 30(b)(6) Deposition Notice; (2) move to compel Nortel's deposition regarding Topics 40-43 of Ciena's February 17, 2006 30(b)(6) Deposition Notice after Nortel identifies with specificity the basis for its lost profits damages claim in its expert's report to the extent that such basis falls within Topics 40-43; (3) move to compel Nortel's live deposition regarding Topics 54-55 of Ciena's March 15, 2006 email from Ryan Nishimoto to Mike Perez if it deems Nortel's written responses insufficient; and to (4) move to compel third-party depositions regarding prior art identified in Nortel's March 27, 2006 Supplementary Invalidity Contentions.

Depositions to be Taken by Nortel:

- Steve Chaddick
- Victor Mizrahi

- Customer depositions on written questions (including Ciena's cross-questions provided on 4/10/2006).
- Witness(es) to testify regarding Ciena's shipping database.
- Witness(es) to testify regarding Ciena's lost profits claim
- Witness(es) to testify regarding Topics 5, 6, and 7 from Nortel's January 27, 2006 30(b)(6) Deposition Notice.

Nortel reserves its right to move to compel Ciena's deposition regarding which of Ciena's cards/parts are necessary for the accused line cards to function.